

# **Exhibit A**

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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EQUAL EMPLOYMENT OPPORTUNITY Case No. 07-CV-8383 (LAP)(HP)  
COMMISSION,

Plaintiff

v.

BLOOMBERG L.P.,

Defendant.

-----X  
JILL PATRICOT, TANYS LANCASTER,  
JANET LOURES, and MONICA PRESTIA,

Plaintiff-Intervenors

-against-

BLOOMBERG L.P.,

Defendant.

-----X  
Volume I

December 15, 2009  
New York, New York

Videotaped deposition of DR. EUGENE BORGIDA, taken  
on behalf of the Defendants, at Jones Day, 222 East 41st  
Street, New York, New York, commencing at 9:13 a.m.,  
December 15, 2009, before Anthony Armstrong, a Notary  
Public and Certified Court Reporter of the State of New  
York.

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2           that you were trying to cover before your  
3           deposition today?

4           A.       The only other issue that surfaces in  
5           the Faigman article is this issue about general  
6           causation, and that's discussed in that piece by  
7           Faigman, et al.

8           Q.       You said that in preparation for your  
9           deposition, you also went back over some case  
10          material; is that right?

11          A.       I went over the -- I went over the  
12          excerpts that I used in the report. I didn't go  
13          back over any new material. I did review the  
14          expert reports -- the other expert reports  
15          quickly before I came in. But that was -- that  
16          was the only sort of primary source that I --  
17          that I really reviewed.

18          Q.       Which other expert reports did you  
19          have the opportunity to review?

20          A.       I read the three statistical experts,  
21          Linear, I believe, Ward and Johnson or Johnston.  
22          I can't remember. I read them quickly.

23          Q.       Why did you take the opportunity to  
24          read the statistical reports?

25          A.       I was curious to see what was in

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them.

Q. Does it have any bearing on your expert opinion in this case?

A. No.

Q. And then you -- I'm sorry. Strike the question.

Did you go over any other of the case materials beyond the expert reports and the excerpts that you used in your report in preparation for your deposition today?

A. I did not.

Q. Finally, you said you met with Kam Wong at the EEOC yesterday; is that right?

A. Correct.

Q. What time did that meeting begin?

A. I believe that began at 9:30.

Q. And how long did it last?

A. I believe I left around 4:30.

Q. Were there any documents that Ms. Wong showed you during that prep session?

A. The only documents she showed me, she held up a file of material that she had sent to you. I didn't see what those documents were. She just held up the file and said that this

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2           your mind, based on your expert opinion, that  
3           gender stereotypic thinking influenced decisions  
4           at Bloomberg, would you allow for the fact that  
5           there's a 49 percent chance that it did not  
6           affect thinking at Bloomberg?

7                   MS. WONG:    Objection.   Misstates  
8                   testimony.

9           A.       Yeah.   I said earlier that it's a  
10          probabilistic statement.   And so I didn't  
11          quantify that.   I was just throwing that out to  
12          convey to you that it was less than your 100  
13          percent but greater than 50.   So I'm not -- I  
14          don't have any way of, you know, doing a neural  
15          imaging study that will allow me to quantify it.

16                   So it is -- it is certain -- "more  
17          likely than not" does imply, as I said earlier,  
18          that there's a chance that it didn't have an  
19          influence.

20   BY MR. DeLORME:

21           Q.       Now, when you say that gender  
22          stereotypic thinking more likely than not  
23          influenced decisions at Bloomberg, are you  
24          suggesting that it's more likely than not in  
25          every department of Bloomberg?

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2           A.       I was referring to the organization  
3           at large, and to the -- there are different  
4           aspects of Bloomberg, and there was testimony  
5           from people who resided in different parts of  
6           Bloomberg, and Bloomberg is worldwide. So I was  
7           referring to the organization at large and not  
8           zoning in on or claiming that it was -- resided  
9           in a particular group. So I was referring to the  
10          organization at large.

11                   And there was testimony from different  
12          organizations, from news and tradebooks and  
13          operations, et cetera. So I didn't qualify it.

14          Q.       And how did you measure that?

15                   MS. WONG:   Objection.

16          A.       Measure what?

17 BY MR. DeLORME:

18          Q.       Measure the -- the probability  
19          across, you know, the entire company that more  
20          likely than not gender -- gender stereotypic  
21          thinking influenced decisions at Bloomberg? By  
22          what means did you measure that statement?

23          A.       It's --

24                   MS. WONG:   Objection.

25          A.       Sorry. It's an expression of an

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2 that you have listed in your report --

3 A. Correct.

4 Q. -- that you reviewed, right?

5 A. Yes, I'm sorry. Yeah. Correct.

6 Q. Okay. And --

7 Okay. Going back to your statement  
8 about gender stereotypic thinking more likely than  
9 not influencing decisions at Bloomberg. Would  
10 that apply to every manager at Bloomberg?

11 MS. WONG: Objection.

12 A. I think it applies to -- in theory,  
13 to individuals who are making decisions about  
14 these kinds of employees; that, in theory,  
15 individuals are affected by that way of thinking.  
16 Some perhaps more than others.

17 I made it clear that there are a  
18 variety of factors that have a bearing on whether  
19 some people are going to be more or less likely to  
20 think that way.

21 I don't know if every -- you know, I  
22 didn't go through each and every manager, you  
23 know, and assess them in that regard. I made a  
24 statement that there was enough material there to  
25 illustrate these ideas that the question of

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2           speaking about an event that occurred in 2005  
3           or 2003 or 2002 or 2007 whether, in fact, that  
4           happened. I just read what was on the record and  
5           assumed that there was this period of time that  
6           defined all such claims.

7   BY MR. DeLORME:

8                   Q.       As you sit here today, can you  
9           provide examples of gender stereotypic thinking  
10          that occurred in each of the months from  
11          February 2002 to December 2008?

12                   MS. WONG:   Objection.

13                  A.       No, I can't roll that out because I  
14          don't think that the materials I was sent would  
15          even be amenable to that. And that wasn't --  
16          wasn't my goal. That wasn't the purpose of  
17          why -- why I was reviewing the materials, first  
18          of all.

19                   But I don't even -- even if it was, I  
20          don't think the data, quote/unquote, the case  
21          material would lend itself by a month-by-month  
22          rollout of who said what and what month. I don't  
23          think that that would even be possible to do based  
24          on what I saw. Maybe I'm wrong about that.



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2       BY MR. DeLORME:

3                   Q.       Sorry, I didn't mean to cut you off.

4       Are you finished with your answer?

5                   A.       Yeah.

6                   Q.       Okay. Could you do it based on year  
7       by year? Can you provide examples today of  
8       gender stereotypic thinking that happened in each  
9       of the years from 2002 to 2008?

10                  MS. WONG: Objection.

11                  A.       I would not be able to do that as I  
12       sit here today. I'd have to go back to the  
13       materials and then systematically re-review all  
14       of those materials and take copious notes of what  
15       was said when, and then put them in a spreadsheet  
16       and then sort of rotate that so that I have some  
17       sort of, you know, printout of what was said  
18       when -- what was allegedly said when, to whom,  
19       and under what circumstances. And I didn't do  
20       that.

21       BY MR. DeLORME:

22                  Q.       With respect to your opinion that  
23       gender stereotypic -- gender stereotypic thinking  
24       more likely than not influenced decisions at  
25       Bloomberg, would that be applicable to every

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2           gender stereotyping and prejudice literature that  
3           specifically investigates what are the beliefs  
4           that people hold about the women, but women who  
5           are mothers or were pregnant. And I was trying to  
6           go from that work, which is part of that general  
7           field, to thinking about the specific -- you know,  
8           the specific context here which involves employees  
9           who are mothers and pregnant.

10                   But there is a body of work that  
11           that's a part of that pertains to gender  
12           stereotypes about women, you know, who are not  
13           mothers or pregnant.

14                   Q.        So did you focus in this study on the  
15           effects of the literature and potential gender  
16           stereotyping and biases associated with women who  
17           became pregnant during the class period of  
18           Bloomberg?

19                   MS. WONG:   Objection.

20                   A.        First of all, I didn't do a study.  
21           But in this report, I focused on the general  
22           literature and the subset of the literature that  
23           pertains to women who are -- to motherhood which  
24           is, as I said, in some people's minds the  
25           prototypic stereotypic -- stereotype.

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2                   And I don't know from the materials  
3           that I sent -- and this may be the most specific  
4           answer to your question. I am not sure, of the  
5           individuals whose material I read, I don't know  
6           who became pregnant during that period of time.  
7           I'd have to go back through and I'd have to,  
8           again, log in, you know, whose pregnancy started  
9           when and, et cetera.

10                   So I didn't, you know, take notes and  
11           sort of track those characteristics, you know, the  
12           starting point, when someone gave birth, when they  
13           announced their pregnancy, what have you. I just  
14           encountered testimony along those lines. So I  
15           can't tell you exactly who became pregnant, who  
16           was a mother before or after. I wasn't tracking  
17           the characteristics of those -- of the claimants,  
18           for example, in that way.

19 BY MR. DeLORME:

20                   Q.           Given what you just said, are you  
21           able to make -- or tender an opinion as to  
22           whether or not gender stereotypic thinking more  
23           likely than not influenced decisions with respect  
24           to women who became pregnant from 2002 to 2006 at  
25           Bloomberg?

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2           that, as I have already stated. But in theory,  
3           when you see someone -- when you know that one is  
4           a mother, if you see that person show up with  
5           their children or if you see that someone is  
6           pregnant or find out about it, it activates -- in  
7           theory, based on the research, you would expect  
8           there to be some activation of that way of  
9           thinking.

10           Q.       But you didn't do anything to measure  
11           or test that with respect to all women who became  
12           pregnant at Bloomberg from 2002 to 2008, correct?

13                   MS. WONG:   Objection.

14           A.       My task here and my -- what -- I  
15           didn't conduct a study, as you refer to it. I  
16           didn't systematically go through and determine  
17           person by person, you know, whether -- you know,  
18           I don't know even know that I, you know -- it's  
19           not really part of what I was trying to do.

20                   I didn't go through and systematically  
21           try to determine and measure, as you put it, what  
22           was said and the extent to which it was said.

23           Q.       Are you aware of any testimony by  
24           women at Bloomberg who had positive experiences  
25           during their pregnancies?

1 Borgida

2 And the basis for that claim is my  
3 knowledge about the social science and my  
4 review of the case facts that I reviewed.

5 So, you know, you can -- I mean,  
6 the opinion is stated. More likely than  
7 not.

8 Q. So how many decisions do you  
9 believe more likely than not were affected  
10 by gender stereotypic thinking at Bloomberg?

11 MS. WONG: Objection.

12 THE WITNESS: I don't have a  
13 specific number in mind.

14 I did not, as I said earlier, do a  
15 scientific study of Bloomberg to decide  
16 how many decisions have been made.

17 Based on the science, based on my  
18 expertise in the science, it is very  
19 clear to me that there are certain  
20 features that are more likely -- that  
21 are likely to be associated with gender  
22 stereotypic thinking.

23 The question is, are those  
24 features present in this environment, is  
25 there testimony from individuals in the